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(Vol. 4)
(Green Book A)

Minute Book

Supreme Court

January Term

1846. 4th

Page Standard Co.
Appellate Court
Springfield, Ill.

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2846

January Term 1846 ++

At a Supreme Court begun and held, at the Capitol in Iowa City, in and for Iowa Territory, on the 5th Monday, being the 5th day of January A.D. 1846 —

Present the Honorable

This being the day on which the Supreme Court should have met, and no one of the Justices of said Court appearing, the Court therefore stands adjourned over until tomorrow morning 9 o'clo

Tuesday morning January 6. 1845.

Court met agreeably to adjournment

Present the Honorable

Joseph Williams } Associate
Thomas S. Wilson } Justices

Bissells Agee vs Davis, Deft filed motion for order —

✓ Benson vs Cameron, The Deft death of Deft suggested

✓ Leonard Et al. vs Davidson, Dismissed as per agreement

✓ Cook Et al. vs Smith; same order

✓ Harrington vs Brown Stricken from the Docket —

✓ Franks vs United States, Argued & submitted —

✓ Edger vs Wilkinson pro ed. Revoked by consent — Procedendo awarded —

January Term 1846

Simpson vs Longacre — Submitted —

Ordered that Court adjourn until to-morrow morning 9 o'clock —

Wednesday Janry 7. 1846 Court met pursuant to adjournment

Present the Honorable
Charles Mason Chief Justice
Joseph Williams } Associate
Thos. S. Wilson } Justices

Deal vs Webber Motion Dismission of Transcript suggested

Leonard vs Negus & Robbins — Mo. to reinstate on Docket argued by Appellants Attorney

R. D. vs Bonsall Cont'd by Consent —

Carothers vs VanHagan Cont'd by Consent

Austead & Dellarhide vs Comrs. Pff moved for Continuance — Sustained, Cont'd.

Dickey &c. vs Comrs of Jefferson, Pff moved to strike from Docket. Mo. withdrawn —

Webster vs Reid by Consent Set for oral argument on Wednesday next —

Davenport vs Wilson, death of Pff suggested —

January Term 1846 4th

Franks vs United States Court Delivered an Opinion affirming the Judgment below — Procedendo awarded —

It is ordered by the court That in all cases from to this court the Pltffs Attorney in Error, have until Friday morning next to file assignments of Errors except the Counties of Jefferson and Van Buren

United States vs Wm McCauley, on Motion of Joseph Knapp, Esqr Prosecuting Attorney for Van Buren County, It is ordered by this Court that the Sheriff of Van Buren County he and he is hereby required forthwith to bring and produce before this Court the body of Wm McCauley the Deft now a prisoner now in his custody — to be dealt with as this Court may direct on the trial of this cause at this Term of this Supreme Court —

Benson et al vs Cameron, Argued & submitted —

Blake vs Bush, Dismissed at Pltffs Costs & procedendo —

Pelton vs Jones, Bacon & Co. Taken up.

J. B. Howell the agent of Alvah White a Bankrupt this day made his report — —

Orders that Court adjourn until tomorrow morning 9 o'Clock —

~~Friday~~ Thursday Janry 8. 1846 Court met Pursuant to adjournment Present the Honorable Charles Mason Chief Justice Joseph Williams } Associate Thomas S. Wilson } Justices

Benson Etal vs Cameron, Joseph Dawkins Admr. Stand as Defts motion struck now for yesterday —

Oneal Etal vs Webber Admr. The Plff moved for Certiorari — mo. overruled —

Wise vs Hines, on mo. of Plff leave given Clerk to amend return —

Dickey &c. vs Board of Comrs. The Plff moved the Court for rule against the Defts to shew cause why the writ of Error herein shall not be dismissed and why they shall not pay the Costs the argued & the Court took the same under advisement —

John Barnes vs Jno. M. Wilkinson. The Deft files Certificate — ms the Court to be docketed to be dismissed —

Davenport vs Wilson on mo. of Deft a writ of Scifa is ordered to issue against George L. Davenport Exor. of the Plff in Error to shew Cause why he shall not be made a party to this Cause, returnable forthwith —

~~Jewett & Co. vs Manning~~ ~~The Deft moved to dismiss writ of Error argued & submitted~~

Bridgman vs Clark The Deft moved to dismiss writ of Error argued & submitted —

Jewett & Co. vs Manning, The Deft moved to dismiss the writ of Error, argued & submitted —

Leonard vs Argus & Robbins, The appellant moved to have cause redocketted — The Court delivered an opinion overruling mo.

on mo. of Appellant, ~~&~~ A rule is granted him herein against Appellee returnable forthwith to shew cause if any they can why this cause shall not be redocketted —

Hendry vs Gardner, The Deft moved to dismiss writ of Error, with damages, which motion being argued was submitted —

Pelton vs Jones, Bacon & Co. This cause was argued and submitted —

Lackey vs Pepper Death of Deft ~~submitted~~ suggested and ordered that Scifa issue against Charles M. Bodeman Admr. to shew cause why he shall not be made a Deft returnable forthwith, under which writ the said Bodeman by his attorney appears and consents that suit may be revived against him as admr — revived accordingly — Cause argued & submitted —

Woods vs Hughes, came on to be heard, argued in part

ordered that Court adjourn until to-morrow morning 9 o'clock. —

January Term 1846 —

Friday Morning January 9. 1846
Court met pursuant to
adjournment —
Present the Honorable
Charles Mason Chief Justice
Joseph Williams } Associate
Thomas S. Wilson } Justices —

Bridgman vs Stark Mo. overruled —

Hendry vs Gardner — writ of Error dismissed
& Six per cent damages awarded —

Dickey & C. vs Jefferson Comrs — Rule —

Jewett vs Manning — Mo. overruled —
Costs by Consent —

Davenport vs Wilson, The Deft moved the Court that a rule be granted them against George L. Davenport Executor of the ~~and~~ Estate of George Davenport deceased, to shew cause why he should not assign errors at this term of this Court. Which Motion being argued — was

Wright vs Kirk & Roberts — Certificate filed & Motion to dismiss —

Hughes vs McCoy, Hughes moves for rehearing and filed petition & notice of motion —

Van vs Manning, The pltff in Error filed Mo. & Moved the Court to permit ~~the~~ him to withdraw their assignment of Errors and file new assignment of Errors, argued and Motion

Wilkinson vs Barnes — Ordered that cause be Docketted — and writ of Error dismissed — writ of procedendo. — awarded. —

Dickey vs Board Comrs. of Jefferson County — The Deft appeared under the rule, and ~~Demurred~~ answered to the rule — argued — submitted The Deft. moved the Court to dismiss the writ of Error for reasons on file, argued & submitted —

~~Caldwell vs Byrnes — Dismissed at pltffs costs~~

Woods vs Hughes — argued completed, and cause submitted —

Edgar vs Lowe Dismissed —

Neill vs Neill argued & submitted

Temple & Funk vs Carstens, Angleroth & Co. submitted

Chadwick vs Brown, Argued & submitted. —

Ordered that Court adjourn until tomorrow morning 9 oclock. 45

Saturday Morning Janry. 10th
1846 Court met Pursuant to
adjournment —
Present the Honorable
Charles Mason, Chief Justice
Joseph Williams } Associate
Tho.s S. Wilson } Justices

Benson &c. vs Cameron Dowr. The Court delivered
an Opinion, Affirmed. — The plff gave notice
of their intention to apply for rehearing — Office petition
Davenport vs Wilson, mo. overruled —

Swan vs Manning, mo sustained, and new affig
of Errors filed — Joinder in Error filed — Cause submitted
Dickey &c. vs Comrs of Jefferson Cty, The rule
discharged — ~~the case given &c~~ and the Defts may
dismiss writ of Error — The writ of Error dismissed —

Neill vs Neill, The Court delivered an Opinion
affirming the Judgt.

Luckey vs Pepsers dowr. The court delivered an
opinion, Judgt. reversed.

Woods vs Hughes — The court delivered an opinion
Judgt. affirmed —

Gardner vs Abel, Submitted on written ar=
gument —

Doolittle vs Bondman & Partridge, contd —

Doolittle vs Shelton Contd. —

January Term 1826

White vs Mallard — argued & submitted.

Sullivan vs Bowen, argued & submitted —

Bissell & Emmons vs Hales — argued & submitted —

Jennison & Stone vs Reed & Boothes, The Defts ~~withdrawn~~ motion withdrawn — and Judgt affirmed with costs & procedendo awarded —

Caldwell vs Byrns — The writ of Error, Dismissed & procedendo awarded if ordered by Defts in Error.

Bowers vs Bridges — cont'd until next Term set for hearing on the first day of the term. —

Peck vs Ayers — argued by Pff's Counsel Submitted —

~~Rankin vs Hemming — argued — & submitted —~~

Ordered that Court adjourn until Monday morning 9 oclock —

January 12. 1846

Monday Morning January 12. 1846
Court met pursuant to adjournment
Present the Honorable
Charles Mason Chief Justice
Joseph Williams } Associate
Thomas S. Wilson } Justices

Ware vs Manning The Court delivered an opinion Reversing the Judgt below & new trial granted —

Gardner vs Abel — The court delivered an opinion affirming the Judgt. remittitur filed by Deft in Error for 76 cts. —

Pelton vs Bacon & Co. The court delivered an opinion affirming Judgt Corrected — Judgt against Defts for costs — in this Court —

Bissells & Emmons vs Gales — The court delivered an opinion affirming the Judgt of the Court below. —

Benson &c. vs Cameron &c. Cont. by Consent —

Bonds vs Request Robbins &c. On motion of

Wright vs Hughes &c. Deft moved to dismiss writ of Error — argued & submitted —

Beach & Eddy vs Bennett, Judgt affirmed by Consent

Overman vs Alger — Judgt ~~affirmed~~ ~~proceedo~~ and rendered for $126 — & costs — by consent

N.O. vs Cook & Co. writ certiorari awarded & case left to perfect record —

Kirk & Roberts vs Wright, Dismissed — and 6 per cent damages —

Bell & Agee vs Davis — the corrigt moved the court for leave to file ~~supplemental~~ answer &c

Phelps vs Reason & wife, The Deft moved to affirm decree of court below for reasons on file — Argued & submitted —

W.L. vs Adams — Deft moved — to continue —

Sands vs Reynolds & Miller — argued in part

ordered that court adjourn until tomorrow 9 o'clock —

January Term 1846

Jany. 13. 1846 court met pursuant to adjournment

Present the Honorable
Charles Mason Chief Justice
Joseph Williams } Associate
Thos. L. Wilson } Justices

Hampton vs Pearce & c. Submitted on written argument. —

Haggard vs Allen. Deft motion overruled —

Harber vs Levi, Deft filed mo. to ~~dismiss~~ strike from Docket

Bissells Apee vs Davis Leave granted Pff to perfect record —

Davis vs Alexander use &c. The Deft filed motion to dismiss writ of Error —

Wright vs Hughes mo. overruled, and cont. at ~~Deft~~ Pff's cost in Error

Phelps vs Pearson & wife, mo. overruled —

Lamb vs Reynolds & Miller — argued in full & submitted —

Ordered that Court adjourn until tomorrow morning 9 o'clock. —

January Term 1846

Wednesday Janry. 14. 1846 Court met pursuant to adjournment

Present the Honorable
Charles Mason Chief Justice
Joseph Williams } Associate
Thomas L. Wilson } Justices

Temple & Gunn vs Carstens Angleroot & Co. The writ of Error dismissed — the Court delivered an opinion. —

Hampton vs Pearce use &c. The Court delivered an opinion reversing the Judgt. —

Pelton vs Jones, Baco & Co. The plff. ~~filed~~ asked leave to shew cause against the taxation of Costs until tomorrow Morning —

Porter vs Sigler — Porter vs Cox use &c. The Defts by Woods moved for a rule against to have the papers returned to the files of this Court —

Leonard vs Aegus & Robbins — mo. of Deft. argued in part — and mo. cont'd until —

Harberdle vs Levi — The Deft mo. to ~~dismiss the~~ strike from the Docket — and leave given the pelff to withdraw the petition for Rehearing —

Berry's case (See minutes —)

Hampton vs U.S. — See order —

Chadwick vs Brown, the court delivered an opinion affirming the Judgment of the Court below,

U.S. vs McCauley, mo. of plff to Dismiss writ of Certiorari - overruled — J. H. Bonney under order of this Court produces the prisoner in open Court
It is ordered by the Court that David Rorer Esqr. be appointed to assist the Counsel for defence of the forisbory and this cause now coming on for hearing and the Court having heard the arguments of Counsel as well for the prosecution as for the prisoner. and not being advised sufficiently in the premises ~~delivered~~ took the same under advisement —
The prisoner remanded into the Custody of the Sheriff —.

Ordered that Court adjourn until tomorrow morning 9 O'Clock —

Thursday January 15. 1846 Court met Pursuant to adjournment Present the Honorable

Charles Mason Chief Justice
Joseph Williams } Associate
Thomas S. Wilson } Justices

Gardner vs Abel + The plff moved to correct Judgt. for costs — the court overruled motion —

United States vs Wm McCauley, The prisoner was brought into court, and the court being now sufficiently advised in the premises, delivered an opinion, reversing the Judgment of the court below, and cause remanded to the district court of Van Buren County — and the prisoner remanded into the Custody of the Marshall for safe keeping and it is now ordered by the court that the prisoner be remanded into the custody of J. H. Bonney Sheriff of Van Buren County, and that he safely keep the said Wm McCauley in the County Jail of the county of Van Buren until the sitting of the District court of said County, and to be then disposed as directed by the said District Court —

Leonard vs Segus & Robbins — Defts moved the court to have this cause placed on the Docket of this court as of last term — submitted

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Milford vs Miller — Deft moved to dismiss affirm judgment of the court below, argued and motion, overruled —

Davenport vs Wilson, The Deft moved that the suit be prosecuted in the name of George L. Davenport Executor of George Davenport deced the plff in Error herein, Mo. granted & so ordered — & Court'd

Woods, Christy & Co. vs Knight & Co. The Sheriff &
M. Lyon by his Attorney appeared under the
Rule and the answered, and the Court being
sufficiently advised ~~of~~ the same, ~~do order that~~
~~said~~ took the same under advisement —

Bruce vs Scotland submitted upon mutter
argument —

Mr. Hall reported to this court certain
proceedings of the members of the Bar —

The united States vs Bank Dubuque —
Argued in part —

Ordered that Court adjourn until
tomorrow morning 9 o'clock —

Friday Jany 16. 1846 Court met pursuant to adjournment

Present the Honorable

Charles Mason — Chief Justice
Joseph Williams — Associate Justices
Thomas S. Wilson — Justices

Dickinson vs Chase & c. The Court delivered an opinion affirming the decree of the Court below

Davis vs Alexander vs &c. Deft moved Court to dismiss writ of Error

Bridges vs Whipple — cont'd. on motion of Deft to have till next term to joinder in Error

McGuffy vs Reiling cont'd same order

Patterson vs Hartsock — The Reff suggests a diminution of the transcript filed herein & moves for writ of certiorari

And moved to cont'd cause for reasons on file, and ordered that Deft joinder in Error & retainder, which is filed.

Navarro vs Mattoon, Submitted on written argument —

~~Ostrander vs Chaney — The~~

Chaney vs Ostrander — The Reff suggests a diminution of the transcript & moves for writ of certiorari, mo. overruled — & Deft

Submitted on written argument

Franks vs U. S. The pltff file a petition for rehearing and by consent the petition is cont'd. until the next term. —

Anson Harrington vs Robt Sharp Admr & Sarah Woods Admx of the Estate of Jas. K. Woods dec'd. On mo. of pltff a rule is granted herein returnable forthwith against the clerk of the District Court of Jackson County to certify and send up to this court a full and complete transcript of the record & proceedings had in this cause in the District court of Jackson county —

Benedict vs Preston, Submitted on written argument

Fish vs Lowe, Judgment rendered for Debt & Interest found due by the mortgage — & stay of Execution — See papers

A. Phillips vs Holmes Judgment rendered for Debt and interest due on the Mortgage — See papers

United States vs The Bank Dubuque, Argued & submitted —

McDaniels vs Spencely Mo. Argued & submitted —

Ordered that Court adjourn until to morrow morning 9 o'clock —

Saturday morning Janry. 17. 1846
Court met pursuant to adjournment
Present the Honorable
Charles Mason Chief Justice
Joseph Williams Associate
Thos. S. Wilson } Justices—

Jones vs Donahoo— submitted on written agreement:—

Webb vs Mauro. } The court delivered an
Webb &c. vs Mauro } opinion in these cases
Reversing the Judgments of the court
below. & new trial awarded—

Barrett, ins Smith— The plff moved, to strike this
cause from the Docket;

~~Caudill vs Sharp,~~
Porter vs Cox, submitted on written argument—

Hampton vs United States— This cause came on to
be heard— The Attorneys Hastings & Baird enters a waiver
of the presence of the said Hampton— and the
argument proceeded— Argued in part and
cont'd. until monday—

Robert Simpson, introduced proof— and was
Sworn and naturalized a citizen of the U.S.

Ordered that court adjourn until
Monday Morning 9 o'clock—

January 2d Term 1846

Monday January 19. 1846 Court met pursuant to adjournment

Present the Honorable

Charles Mason Chief Justice

Joseph Williams } Associate

Thomas L. Wilson } Justices —

U.S. vs Andrews, Judgt affirmed — procedendo awarded —

U.S. vs Powers cont.d —

Cook & Cook vs U.S. cont.d —

U.S. vs Walker cont.d —

Benedict vs Beaton, the Court delivered an Opinion — affirming the Judgment of the Court below and writ of procedendo. —

Davis vs Alexander use &c. The motion of Defts came on to be heard — argued and Judgt. affirmed ~~The Defft moved to have the Motion~~ be corrected ~~until next Friday~~ nisi —

U.S. vs Bonsell, cont.d as per agreement. —

Hampton vs U.S. The cause taken up, and the Court having heard, agrument of Counsel and submitted to the Court. —

Webster vs Reid — Argument Commenced —

Ordered that Court adjourn until 9 oclock to-morrow Morning —

January Term 1846

Tuesday Janry. 20. 1846 Court met pursuant to adjournment

Present the Honorable

Charles Mason Chief Justice

Joseph Williams } Associate

Thomas S. Wilson } Justices

Woods Christy & c. vs Knight & c. The rule vs Lyon made absolute & Judgt for costs —

Mattoon vs Senator & c. Opinion & Judgt affd.

Smith vs Barrett Opinion Decree affd.

Jones vs Donahoo, Opinion & Judgt. affd.

Cheney vs Estrada, Opinion delivered

Peck vs Ayers — Opinion, Judgt affirmed —

West vs Hatfield, Opinion, Judgt. affirmed. —

Lamb vs Reynolds & Miller, Opinion delivered — Decree affirmed with costs —

Hughes vs McCloy, Rehearing granted and set for the august term —

Wilson vs Johnson & c. The Defts moved the Court to strike from the transcript the Bill of Exceptions argued & submitted —

Ealy vs Roberts settled as per agreement filed. each party to pay ½ costs — & Judgt. rendered —

January Term 1846

Webster vs Reid, argument resumed

Burgess & Starr vs Wilson, Death of plff Burgess suggested & John D. Baker Admr. receives — and, Jdgt entered against the admr. —

Roberts vs Smith & Dalferty, the plff moved the Court for Jdgt vs Dalferty on rule granted at last Court, No. Court, until & on subsequent day of this term —

Ordered that Court adjourn until tomorrow morning 9 o'clock —

January Term 1846

Wednesday January 21st. 1846 Court met pursuant to adjournment

Present the Honorable
Charles Mason Chief Justice
Joseph Williams } Associate
Thomas S. Wilson } Justices

McDaniel vs Spencely & Harker, opinion delivered and Judgt. Reversed & new trial awarded —

Jennison vs Foltz opinion delivered & Judgt. affirmed

Melton & Temple vs Bastens, Anderson & Co. the Court delivered opinion ~~Judgt.~~ motion to dismiss overruled —

Porter vs Cox use &c. the court delivered an opinion — and Judgt affirmed —

Sullivan vs Borden opinion, Judgt aff'd.

Cheney vs Ostrander, That the Deft file an additional affidavit on or before the 15th. March in the District Court, and then case affirmed if not case reversed —

United States vs Simmons, Opinion Judgt. affirmed —

Webster vs Reid, argument continued —

Thursday Morning January 22. 1824 Court met pursuant to adjournment

Present the Honorable-
Charles Mason Chief Justice
Joseph Williams } Associate
Thomas L. Wilson } Justices

Roberts ay. Smith use of Dalferty, mo. of Plff
Judgt rendered on the rule vs Dalferty. —

Webster as Reid — Argument

ordered that Court adjourn until tomorrow morning 9 oclock —

Friday Morning January 23. 1824
Court met pursuant to Adjournment
Present the Honorable
Charles Mason Chief Justice
Joseph Williams } Associate
Thomas S. Wilson } Justices

Leonard vs Segur & Robbins Mo. overruled

Wilson vs Johnson &c. Mo. overruled

Bruce vs Smetland & opinion delivered &
Judgt. reversed & cause remanded

White vs Ballard — opinion delivered & Judgt.
reversed and cause remanded —

Harlep &c. vs Fingle, Judgt. rendered according
to agreement —

Webster vs Reid — argument cont.-

Ordered that Court adjourn until
tomorrow morning 9 O'clock —

Saturday morning Jany 24. 1846 Court met pursuant to adjournment

Present the Honorable
Charles Mason chief Justice
Joseph Williams } Associate
Thomas S. Wilson } Justices —

Mattoon & Temple vs Barstens, Angleroth & Co. The motion to dismiss overruled, and the ~~Defft~~ granted a rule against the clerk to make new returns to writ of Error. —

Hampton vs United States, Opinion delivered and Judgt. affirmed, Judge Wilson dissenting

Newton vs ~~Flood~~ — Submitted on written agreement of pltff

Davis vs Alexander use &c. Judgt entered affirming Judgt. —

Rose vs Hine — Rule granted pltff against Defts to join in Error ~~&c~~ by Monday morning

Thomas Et al vs Isett — Contd until August next

Wright vs Hughes Contd to Janry.

~~Ewing vs Barrett &c~~

Webster vs Reid — argued & submitted

Ordered that Easten Morris Esqr. be and he is hereby appointed Reporter to this Court

ordered that Court adjourn
until Monday morning 9 O'clock

Monday morning January 26. 1846
Court met pursuant to adjournment
Present the Honorable
Charles Mason Chief Justice
Joseph Williams } Associate
Thomas L. Wilson } Justices

Edgar vs Coldwell, Judgt entered anno pro
vs James Coldwell

Marsh, Lieut Delevan vs Reddicks Ex. affirmed
Same vs Same affirmed

U. S. vs Bank affirmed — from which Judgmt
to Bank prayed an appeal to the Supreme Court of
the United States which is granted on executing bond in penalty
of $ with good security —
Longacre vs Simpson, reversed

Webster vs Reid, Affirmed —

Culbertson vs Somerson — former Judgt this
Court affirmed —

Saunt vs Mullen & Reynolds — mo. for
rehearing — petition filed — & proceedings stayed
until 2nd Monday heard —

U. S. vs Packard, Leave given Pltf. to withdraw
transcript for amendment —

Ordered that the clerk of this court issue fees — See memo. —
Melchers Laughlin, mo to dismiss overruled —

Aymes vs Malace — certif. files — mo. writ of Error dismissed — & procedendo awarded —

ordered that the clerk of this court issue process in all cases where writs are filed —

Ordered that court adjourn until the first Wednesday after the first Monday in August next. —

Wednesday Morning August 5. 1846

This Being the day the Supreme Court adjourned to and there being no one of the Justices of said Court present, the Court Stands adjourned over until tomorrow morning 10 oclock —

Thursday Morning August 6. 1846

10 oclock this being the hour at which the Supreme was adjourned to on yesterday, and no one of the Justices of said Court being present the said Court Stands adjourned over until tomorrow morning 10 oclock —